UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,878	01/30/2001	Sachiko Hiyoshi	010031	9017

23850 7590 04/22/2005

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

EXAMINER	
WEINSTEIN, STEVEN L	

ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/771,878	HIYOSHI, SACHIKO	
	Examiner	Art Unit	
	Steven L. Weinstein	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 January 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *6-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *6-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6-10 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al ('724) in view of Iwata et al (Jp '570) or vice versa, both further in view of Airlie (GB '212) and Lee (Ep '251) for the reasons fully and clearly detailed in the Office action mailed 10/05/04.

In regard to claim 10, the particular conventional material one chooses to employ for the base material is seen to have been an obvious result effective variable. It is noted that Iwata discloses that the substrate tape (12) can be paper, as well as synthetic paper such as polypropylene, and polyethylene and polyester film can be used.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 6 above, and further in view of Tanno Koutan et al ('849).

Claim 11 recites that the vent hole and hole sealing sheet are misaligned relative to each other which is shown to have been an obvious expedient by Tanno kKoutan et al in the figures and to modify the combination and "slightly" misalign the hole and tape would therefore have been obvious.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 11 above, and further in view of Mizuno (5,989,608), Oyama et al (Jp 406329179) and Ogawa (Jp 411070977).

Claim 18 differs from the combination in that there is a non-adhesive portion (presumably of the tape) present around the vent hole which is shown to have been an obvious expedient by Mizuno, Oyama et al and Ozawa. To modify the combination and provide a non-adhesive portion associated with the tape in the context of a venting system would therefore have been obvious.

All of applicant's remarks filed 1/27/05 have been fully and carefully considered but are not found to be convincing.

On page 8 and 9 of the amendment, the urgings relative to the rejection and specifically Clarke et al appear to be restatements of previous urgings. Clark et al is fully discussed in the last Office action both in the body of the rejection and again in the response to applicant's previous urgings. Clarke et al clearly teaches applying the pressure sensitive/heat sensitive adhesive tapes to vent holes in food packages which are to be cooked wherein the packages are to be vented at a certain temperature or time during cooking which is precisely applicant's objective. Applicant is arguing each reference separately, but the references are applied in combination under 35 USC 103, obviousness. Clarke et al, or, for that matter, Iwata et al do not have to specifically disclose the recited vertical peeling strength property for the rejection to be proper. As noted previously, both references teach that the pressure sensitive adhesive should lose significant amount of strength when the food is cooked to a certain temperature (which both references happen to place within the recited range) so that the adhesive releases and allows venting. Since the art, taken as a whole, employs the same adhesives which have the same release capability in the same temperature range, if the

vertical peeling strength was not inherent it would certainly have been routinely determinable in view of the art taken as a whole.

Applicants urging relative to Airlie and Lee are not seen to be convincing and are seen to be redundant. These references are only being relied on to teach that conventional tackifiers are well known to control the pressure sensitive adhesive properties of a pressure sensitive adhesive.

In regard to claim 10, as noted above, the art taken as a whole teaches the use of various conventional substrates for conventional tapes including paper. In regard to claims 13 ad 15, the particular conventional materials one chooses to employ for the backing of the tape is seen to have been an obvious result effective variable.

In this regard, applicant is once again queried as to the conventionality of both the adhesive and the tape and its elements. See the last office action mailed 10/5/04, page 6, para. 2.

In regard to the urgings relative to claim 18, these are seen to be moot in view of the new ground of rejection, necessitated by applicant's amendment.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L Weinstein whose telephone number is (571) 272-1410. The examiner can normally be reached on Monday-Friday 6:30am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Weinstein/af
April 14, 2005

Steve Weinstein
STEVE WEINSTEIN 1761
PRIMARY EXAMINER